REMARKS:

Claims 1, 4-8, 11-15, 18-23, 25-29, 31-35, 37-41, and 43 are currently pending in the subject Application.

Claims 2, 3, 9, 10, 16, 17, 24, 30, 36, and 42 have been previously canceled without *prejudice*.

Claims 1, 4-8, 11-15, 18-23, 25-29, 31-35, 37-41, and 43 stand rejected under 35 U.S.C. § 103(a) over U.S. Patent No. 6,047,290 to Kennedy et al. ("*Kennedy*") in view of U.S. Patent Publication No. 2002/0156663 to Weber et al. ("*Weber*").

The Applicants continue to respectfully submit that *Weber*, which published on 24 October 2002, was filed on 13 July 2001. The subject Application was filed on 4 December 2001. The Applicants continue to believe, however, that the Applicants will be able to satisfy the requirements of 37 C.F.R § 131 by filing a declaration showing a completion of the present invention prior to 13 July 2001, and respectfully reserve the Applicants' right to do so in the future during the pendency of the subject Application.

The Applicants also believe, however, that the present invention is not disclosed or fairly suggested by *Weber*, and therefore, traverses the rejection of Claims 1, 4-8, 11-15, 18-23, 25-29, 31-35, 37-41, and 43 for at least the reasons recited below.

The Applicants respectfully submit that all of the Applicants arguments and amendments are without *prejudice* or *disclaimer*. In addition, the Applicants have merely discussed example distinctions from the cited prior art. Other distinctions may exist, and as such, the Applicants reserve the right to discuss these additional distinctions in a future Response or on Appeal, if appropriate. The Applicants further respectfully submit that by not responding to additional statements made by the Examiner, the Applicants do not acquiesce to the Examiner's additional statements. The example distinctions discussed by the Applicants are considered sufficient to overcome the Examiner's rejections. In addition, the Applicants reserve the right to pursue broader claims in this Application or through a continuation patent application. No new matter has been added.

REJECTION UNDER 35 U.S.C. § 103(a):

Claims 1, 4-8, 11-15, 18-23, 25-29, 31-35, 37-41, and 43 stand rejected under 35 U.S.C. § 103(a) over *Kennedy* in view of *Weber*.

As discussed above, the Applicants respectfully reserve the right to satisfy the requirements of 37 C.F.R § 131 by filing a declaration showing a completion of the present invention prior to 13 July 2001, in the future during the pendency of the subject Application. However, the Applicants believe that the present invention is not disclosed or fairly suggested by *Weber*, and therefore, traverses the rejection of Claims 1, 4-8, 11-15, 18-23, 25-29, 31-35, 37-41, and 43 for at least the reasons recited below.

The Applicants respectfully submit that *Kennedy* or *Weber*, either individually, or in combination, fail to disclose, teach, or suggest each and every element of Claims 1, 4-8, 11-15, 18-23, 25-29, 31-35, 37-41, and 43. Thus, the Applicants respectfully traverse the Examiner's obvious rejection of Claims 1, 4-8, 11-15, 18-23, 25-29, 31-35, 37-41, and 43 under 35 U.S.C. § 103(a) over the proposed combination of *Kennedy* and *Weber*, either individually or in combination.

The Proposed *Kennedy-Weber* Combination Fails to Disclose, Teach, or Suggest Various Limitations Recited in Applicants Claims

For example, with respect to independent Claim 8, this claim recites:

> A system for generating a supply chain plan, comprising:
> a database operable to store data describing a supply chain network comprising a plurality of buffers, each **buffer being operable to store a plurality of items and associated with a corresponding time variable**, the supply chain network constrained by a constraint;
> a linear programming optimizer coupled to the database and operable to:
> generate a linear programming problem for the supply chain network;
> approximate the linear programming problem by **discretizing the corresponding time variables of the buffers** to yield a plurality of discretized corresponding time variables and by relaxing the constraint to yield a relaxed constraint; and

calculate an optimized supply chain plan for the approximated linear programming problem, the optimized supply chain plan describing a quantity of items at each buffer for at least one time value of the corresponding time variable and including a list of producers operable to supply the items to each buffer; and

a heuristic solver coupled to the database and operable to adjust the optimized supply chain plan to satisfy the constraint, wherein the heuristic solver is operable to adjust the optimized supply chain plan by:

repeating the following until a last upstream buffer is reached:

selecting a buffer;

adjusting one of (a) the quantity of items at the selected buffer, and (b) at least one time value of the corresponding time variable of the selected buffer to satisfy the constraint; and

proceeding to a next upstream buffer; and

repeating the following until a last downstream buffer is reached:

selecting a buffer;

planning production to either (a) supply the items to the selected buffer at the adjusted time value, or (b) supply the adjusted quantity of items to the selected buffer; and

proceeding to a next downstream buffer; and

an order planner coupled to the database and operable to generate an order plan by planning production to supply the quantity of items to each buffer according to the list of producers associated with the buffer.

In addition, *Kennedy* or *Weber*, either individually or in combination, fail to disclose each and every limitation of independent Claims 1, 15, 22, and 23.

The Applicants respectfully submit that *Kennedy* fails to disclose, teach, or suggest independent Claim 8 limitations regarding a "***buffer being operable to store a plurality of items and associated with a corresponding time variable***" and in particular, *Kennedy* fails to disclose, teach, or suggest independent Claim 8 limitations regarding an "***discretizing the corresponding time variables of the buffers.***" Moreover, *Kennedy* fails to disclose, teach, or suggest independent Claim 8 limitations regarding "***adjusting one of (a) the quantity of items at the selected buffer, and (b) at least one time value of the corresponding time variable of the selected buffer.***"

The Examiner has asserted that Kennedy discloses "Buffers are used to store items (i.e. resources, etc.) and associated time values (i.e. delivery time, timing),

wherein the supply chain network is restricted by the amount of supply items available." (23 November 2007 Final Office Action, Page 6). In addition to not indicating what portion or portions of *Kennedy* are relied upon as allegedly disclosing the foregoing limitation, the Applicants respectfully submit that nowhere does Kennedy disclose, teach or suggest independent claim 8 limitation "*buffer being operable to store a plurality of items and associated with a corresponding time variable.*"

In particular, the Applicants respectfully submit that nowhere does Kennedy disclose, teach or suggest independent claim 8 limitation "*discretizing the corresponding time variables of the buffers.*" In addition, the Applicants respectfully submit that nowhere does Kennedy disclose, teach or suggest independent claim 8 limitation "*adjusting one of (a) the quantity of items at the selected buffer, and (b) at least one time value of the corresponding time variable of the selected buffer.*"

In fact, Kennedy has nothing whatsoever to do with a plurality of buffers, each "buffer being operable to store a plurality of items and associated with a corresponding time variable." Specifically, the Applicants respectfully submit that the **entirety** of Kennedy, and not only the portions cited by the Examiner, are silent as to the foregoing independent claim 8 limitations. The Applicants respectfully submit that Kennedy is silent as to the foregoing claim limitations because Kennedy simply does not disclose, teach, or suggest independent Claim 8 limitations regarding a "buffer being operable to store a plurality of items and associated with a corresponding time variable."

In addition to the foregoing, the Applicants respectfully submit that the cited portions of *Weber,* and in its entirety, alone or in combination with *Kennedy*, fails to disclose, teach or suggest independent Claim 8 limitations regarding a "*buffer being operable to store a plurality of items and associated with a corresponding time variable*" and in particular, *Weber* fails to disclose, teach, or suggest independent Claim 8 limitations regarding an "*discretizing the corresponding time variables of the buffers.*" Moreover, *Weber,* either alone or in combination with *Kennedy*, fails to disclose, teach, or suggest independent Claim 8 limitations regarding "*adjusting one*

of (a) the quantity of items at the selected buffer, and (b) at least one time value of the corresponding time variable of the selected buffer."

While the Examiner asserts:

> Weber et al. does teaches approximating this problem using discretized variables to yield a plurality of discretized variables and by relaxing the constraint to yield a relaxed constraint (23 November 2007 Final Office Action, Page5).

Nevertheless, as can be seen from the Examiner's own characterization of *Weber*, *Weber* fails to disclose, teach or suggest "discretizing the corresponding time variables of the buffers." While the Examiner asserts that *Weber* "teaches approximating this problem using discretized variables" it is clear that W*eber* does not, clearly does not, disclose "discretizing the corresponding time variables of the buffers." In particular, *Weber* clearly does not disclose "adjusting one of (a) the quantity of items at the selected buffer, and (b) at least one time value of the corresponding time variable of the selected buffer."

The Examiner cites "paragraphs 18, 27, 103, 120-1, and 170 and 106, 217" of *Weber* as allegedly disclosing "approximating this problem using discretized variables to yield a plurality of discretized variables and by relaxing the constraint to yield a relaxed constraint" (23 November 2007 Final Office Action, Page5). Notwithstanding the Examiner's assertion, it is clear that the cited portions of *Weber*, clearly do not disclose "buffer being operable to store a plurality of items and associated with a corresponding time variable." In addition, Weber fails to disclose, teach, or suggest independent Claim 8 limitations regarding an "discretizing the corresponding time variables of the buffers." Also, Weber, either alone or in combination with Kennedy, fails to disclose, teach, or suggest independent Claim 8 limitations regarding "adjusting one of (a) the quantity of items at the selected buffer, and (b) at least one time value of the corresponding time variable of the selected buffer." In addition to the cited portions of *Weber* clearly do not disclosing the foregoing limitations, W*eber* in its entirety likewise fails to disclose, teach or suggest each and every limitation of independent claim 8. In

addition, *Kennedy* or *Weber*, either individually or in combination, fail to disclose each and every limitation of independent Claims 1, 15, 22, and 23. In addition, the Applicants respectfully submit that *Weber* fails to disclose, teach, or suggest Applicants claim limitations regarding a system, method, or logic *"for generating a supply chain plan"* and in particular *Weber* fails to disclose, teach, or suggest independent Claim 8 limitations regarding a *"linear programming optimizer coupled to the database"* operable to *"generate a linear programming problem* for the supply chain network". Rather *Weber* merely discloses the "supply chain is then optimized using *linear programming* if the supply chain does not include multi-tiered pricing". (Paragraph 18). In addition, although, the Examiner appears to be equating the *"linear programming"* recited in independent Claim 8 with the *"linear programming"* disclosed in *Weber*, (8 June 2007 Office Action, Page 6), however, the Examiner is silent as to whether *Weber* or *Kennedy* teaches, suggests, or even hints at a *"linear programming optimizer coupled to the database"* operable to *"generate a linear programming problem* for the supply chain network", as recited in independent Claim 8. Thus, *Weber* or *Kennedy*, either individually or in combination, cannot provide for *generating a linear programming problem* for the supply chain network, since *Weber* or *Kennedy* does not even provide for a *linear programming optimizer coupled to a database*, in the first place.

The Applicants further respectfully submit that *Weber* fails to disclose, teach, or suggest independent Claim 8 limitations regarding a *"linear programming optimizer coupled to the database"* operable to *"approximate the linear programming problem* by *discretizing the time variables* of the buffers to *yield a plurality of discretized time variables* and by *relaxing the constraint to yield a relaxed constraint"*. In addition, as discussed above, *Weber* fails to disclose, teach, or suggest a *"linear programming optimizer coupled to the database"* as recited in independent Claim 8. However, the Examiner appears to be equating *"approximat[ing] the linear programming problem"* recited in independent Claim 8 with "calculating an optimized solution supply plan for the approximated linear programming problem" allegedly disclosed in *Weber*. (23 November 2007 Office Action, Page 5). However, *"approximat[ing] the linear programming problem"* recited in independent Claim 8, is

provided by "*discretizing the time variables* of the buffers to *yield a plurality of discretized time variables* and by *relaxing the constraint to yield a relaxed constraint*". Thus, *Weber* cannot provide for *approximat[ing] the linear programming problem*, since *Weber* does not even provide for *discretizing the time variables* of the buffers to *yield a plurality of discretized time variables* or even provide for *relaxing the constraint to yield a relaxed constraint*, in the first place.

The Office Action Acknowledges that *Kennedy* Fails to Disclose Various Limitations Recited in the Applicants' Claims

The Applicants respectfully submit that the Final Office Action acknowledges, and the Applicants agree, that *Kennedy* fails to disclose the emphasized limitations noted above in independent Claim 8.

Specifically **the Examiner acknowledges that *Kennedy* fails to disclose** "that the algorithm used for the supply chain network is a generated linear programming problem, *approximating this linear programming problem by discretizing the time variables of the buffers to yield a plurality of discretized time variables* and by relaxing the constraint to yield a relaxed constraint, or calculating an optimized supply chain plan for the approximated linear programming problem." (23 November 2007 Final Office Action, Page 8). (Emphasis Added). Nevertheless, the Examiner asserts that the cited portions of *Weber* somehow disclose the acknowledged shortcomings in *Kennedy*. The Applicants respectfully disagree and respectfully traverse the Examiner's rejection.

In addition, the Final Office Action asserts that *Weber* and *Kennedy* "*are concerned with* optimally solving supply chain networks in the best possible way." (23 November 2007 Final Office Action, Page 8). (Emphasis Added). The Applicants respectfully submit that whatever *Weber and Kennedy* may be "concerned with" they fail to disclose at least the limitations of the subject application relating to "buffer being operable to store a plurality of items and associated with a corresponding time variable," "discretizing the corresponding time variables of the buffers," and "adjusting one of (a)

the quantity of items at the selected buffer, and (b) at least one time value of the corresponding time variable of the selected buffer."

In fact, the Examiner's own acknowledgment indicates that *Kennedy* "does not expressly disclose" certain limitations of the Applicants' claims. In addition, neither the cited portions, nor the entirety of *Weber* and *Kennedy,* disclose at least the limitations set forth above. Significantly, neither *Weber* nor *Kennedy,* either alone or in combination disclose, teach or suggest each and every element of the Applicants' claims.

The Office Action Fails to Properly Establish a *Prima Facie* case of Obviousness over the Proposed *Kennedy-Weber* Combination

The Applicants respectfully submit that the Final Office Action fails to properly establish a *prima facie* case of obviousness based on the proposed combination of *Kennedy or Weber,* either individually or in combination. The Final Office Action has not shown the required teaching, suggestion, or motivation in these references or in knowledge generally available to those of ordinary skill in the art at the time of the invention to combine these references as proposed. The Final Office Action merely states that "it would have been obvious to one of ordinary skill in the art at the time of the invention to use the OR techniques…yielding a solution that allows user to make tactical and strategic decisions." (23 November 2007 Final Office Action, Page 9). The Applicants respectfully disagrees.

The Applicants further respectfully submit that this purported advantage relied on by the Examiner is nowhere disclosed, taught, or suggested in *Kennedy or Weber,* either individually or in combination. The Applicants respectfully request the Examiner to point to the portions of *Kennedy or Weber* which contain the teaching, suggestion, or motivation to combine these references for the Examiner's stated purported advantage. The Applicants further respectfully submits that the Examiner is using the subject Application as a template to formulate reconstructive hindsight, which constitutes impermissible use of hindsight under 35 U.S.C. § 103(a).

A recent Federal Circuit case makes it crystal clear that, in an obviousness situation, the *prior art must disclose each and every element of the claimed invention, and that any motivation to combine or modify the prior art must be based upon a suggestion in the prior art*. *In re Lee*, 61 U.S.P.Q.2d 1430 (Fed. Cir. 2002). (Emphasis Added). Conclusory statements regarding common knowledge and common sense are insufficient to support a finding of obviousness. *Id*. at 1434-35. With respect to the subject Application, the *Examiner has not adequately supported the selection and combination of Kennedy or Weber to render obvious the Applicants' claimed invention*. The Examiner's unsupported conclusory statements that ""it would have been obvious to one of ordinary skill in the art at the time of the invention to use the OR techniques...yielding a solution that allows user to make tactical and strategic decisions" *does not adequately address the issue of motivation to combine*. (23 November 2007 Final Office Action, Page 9). This factual question of motivation is material to patentability, and cannot be resolved on subjective belief and unknown authority. *Id*. It is improper, in determining whether a person of ordinary skill would have been led to this combination of references, simply to "[use] that which the inventor taught against its teacher." *W.L. Gore v. Garlock, Inc.*, 721 F.2d 1540 (Fed. Cir. 1983). Thus, *the Office Action fails to provide proper motivation for combining the teachings of Kennedy or Weber*, either individually or in combination.

The Applicants Claims are Patentable over the proposed *Kennedy-Weber* Combination

The Applicants respectfully submit that independent claims 1, 8, 15, 22 and 23 each contain unique and novel limitations that are not disclosed, taught, suggested, or even hinted at in *Kennedy and Weber*, either alone or in combination. The Applicants further respectfully submit that claims 1, 8, 15, 22 and 23 are not rendered obvious over the proposed combination of *Kennedy and Weber* and are considered to be in condition for allowance.

The Applicants further respectfully submit that dependent claims 4-7, 11-14, 15-21, 25-29, 31-35, 37-41, and 43 are not rendered obvious over the proposed *Kennedy-Weber*

combination and are also considered to be in condition for allowance for at least the reason of depending from allowable claims.

The Final Office Action Fails to Properly Establish a *Prima Facie* case of Obviousness over the Proposed *Kennedy-Weber* Combination According to the UPSTO Examination Guidelines

The Applicants respectfully submit that the Final Office Action fails to properly establish a *prima facie* case of obviousness based on the proposed combination of *Kennedy or Weber*, either individually or in combination, and in particular, the Final Office Action fails to establish a *prima facie* case of obviousness based on the "Examination Guidelines for Determining Obviousness Under 35 U.S.C. 103 in View of the Supreme Court Decision in *KSR International Co. v. Teleflex Inc.*" (the "Guidelines").

As reiterated by the Supreme Court in *KSR International Co. v. Teleflex Inc.* (*KSR*), the framework for the objective analysis for determining obviousness under 35 U.S.C. 103 is stated in G*raham v. John Deere Co.* (383 U.S. 1, 148 USPQ 459 (1966)). Obviousness is a question of law based on underlying factual inquiries. These factual inquiries enunciated by the Court are as follows:

(1) Determining the scope and content of the prior art;
(2) Ascertaining the differences between the claimed invention and the prior art; and
(3) Resolving the level of ordinary skill in the pertinent art.

(Notice, 72 Fed. Reg. 57527 (Oct. 10, 2007)). Objective evidence relevant to the issue of obviousness must be evaluated by Office personnel. (383 U.S. 17–18, 148 USPQ 467 (1966)). As stated by the Supreme Court in *KSR*, "While the sequence of these questions might be reordered in any particular case, the [*Graham*] factors continue to define the inquiry that controls." (*KSR*, 550 U.S. at __, 82 USPQ2d at 1391).

However, it is important to note that the Guidelines require that Office personnel "***ensure that the written record includes findings of fact*** concerning the state of the art and the teachings of the references applied. (Notice, 72 Fed. Reg. 57527 (Oct. 10, 2007)).

In addition, the Guidelines remind Office personnel that the *"factual findings made by Office personnel are the necessary underpinnings to establish obviousness."* (*id.*). Further, *"Office personnel must provide an explanation to support an obviousness rejection* under 35 U.S.C. 103. (*id.*). In fact, "35 U.S.C. 132 requires that the applicant be notified of the reasons for the rejection of the claim so that he or she can decide how best to proceed" and "clearly setting forth findings of fact and the rationale(s) to support a rejection in an Office action leads to the prompt resolution of issues pertinent to patentability." (*id.*).

With respect to the subject Application, the Final Office Action has not shown the **factual findings necessary to establish obviousness** or even **an explanation to support the obviousness rejection** based on the proposed combination of *Kennedy and Weber*, either individually or in combination. The Final Office Action merely states that "it would have been obvious to one of ordinary skill in the art at the time of the invention to use the OR techniques…yielding a solution that allows user to make tactical and strategic decisions." (23 November 2007 Final Office Action, Page 9). The Applicants respectfully disagree and respectfully submits that the Examiner's conclusory statement is not sufficient to establish the **factual findings necessary to establish obviousness** and is not a sufficient **explanation to support the obviousness rejection** based on the proposed combination of *Kennedy* and *Weber.*

The Guidelines further provide guidance to Office personnel in "determining the scope and content of the prior art" such as, for example, "Office personnel must first obtain a thorough understanding of the invention disclosed and claimed in the application." (Notice, 72 Fed. Reg. 57527 (Oct. 10, 2007)). The scope of the claimed invention must be clearly determined by giving the claims the "broadest reasonable interpretation consistent with the specification." (*See* Phillips v. AWH Corp., 415 F.3d 1303, 1316, 75 USPQ2d 1321, 1329 (Fed. Cir. 2005) and MPEP § 2111.). In addition, the Guidelines state that any *"obviousness rejection should include,* either explicitly or implicitly in view of the prior art applied, *an indication of the level of ordinary skill."* (Notice, 72 Fed. Reg. 57528 (Oct. 10, 2007)). With respect to the subject Application, the Office Action has not provided *an indication of the level of ordinary skill.*

The Guidelines still further provide that once the *Graham* factual inquiries are resolved, Office personnel must determine whether the claimed invention would have been obvious to one of ordinary skill in the art. (*Id.*). For example, the Guidelines state that ***Office personnel must explain why the difference(s) between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art***. (*Id.*). In addition, the Guidelines state that the proper analysis is ***whether the claimed invention would have been obvious to one of ordinary skill in the art after consideration of all the facts***. (*Id.* and *See* 35 U.S.C. 103(a)).

With respect to the subject Application, the Final Office Action has not expressly resolved any of the *Graham* factual inquiries to determine whether the Applicants' invention would have been obvious to one of ordinary skill in the art. In addition, the Final Office Action fails to ***explain why the difference(s) between the proposed combination of Kennedy*** and ***Weber, either individually or in combination,*** *and the Applicants'* ***claimed invention, would have been obvious to one of ordinary skill in the art***. The Final Office Action merely states that (23 November 2007 Final Office Action, Page 9). The Applicants respectfully disagree and further respectfully requests clarification as to how this statement ***explains why the difference(s) between the proposed combination of Kennedy and Weber, either individually or in combination, and the Applicants' claimed invention would have been obvious to one of ordinary skill in the art***. The Applicants further respectfully submit that the Examiner is using the subject Application as a template to formulate reconstructive hindsight, which constitutes impermissible use of hindsight under 35 U.S.C. § 103(a).

The Guidelines yet further state that the "key to supporting any rejection under 35 U.S.C. 103 is the ***clear articulation of the reason(s) why the claimed invention would have been obvious***." (Notice, 72 Fed. Reg. 57528 (Oct. 10, 2007)). In fact, the Supreme Court in *KSR* noted that "***the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit***." (*id.*). The Court quoting *In re Kahn* (441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006)), stated that "'[R]ejections on ***obviousness cannot be sustained by mere conclusory statements***; instead, there ***must be some articulated reasoning with some rational underpinning to support the legal***

conclusion of obviousness.'" (*KSR*, 550 U.S. at __, 82 USPQ2d at 1396). The Guidelines provide the following seven rationales:

(A) Combining prior art elements according to known methods to yield predictable results;

(B) Simple substitution of one known element for another to obtain predictable results;

(C) Use of known technique to improve similar devices (methods, or products) in the same way;

(D) Applying a known technique to a known device (method, or product) ready for improvement to yield predictable results;

(E) "Obvious to try"—choosing from a finite number of identified, predictable solutions, with a reasonable expectation of success;

(F) Known work in one field of endeavor may prompt variations of it for use in either the same field or a different one based on design incentives or other market forces if the variations would have been predictable to one of ordinary skill in the art;

(G) Some teaching, suggestion, or motivation in the prior art that would have led one of ordinary skill to modify the prior art reference or to combine prior art reference teachings to arrive at the claimed invention.

The Applicants respectfully submits that the *Final Office Action fails to provide any articulation, let alone, clear articulation of the reasons why the Applicants' claimed invention would have been obvious*. For example, the *Examiner has not adequately supported the selection and combination of Kennedy and Weber to render obvious the Applicants' claimed invention*. The Examiner's unsupported conclusory statements that ""it would have been obvious to one of ordinary skill in the art at the time of the invention to use the OR techniques...yielding a solution that allows user to make tactical and strategic decisions" *does not adequately provide clear articulation of the reasons why the Applicants' claimed invention would have been obvious*. (23 November 2007 Final Office Action, Page 9). In addition, the Examiner's unsupported conclusory statement fails to meet any of the Guidelines rationales to render obvious the Applicants' claimed invention.

Thus, if the Examiner continues to maintain the obvious rejection based on the proposed combination of *Kennedy* and *Weber,* the Applicants respectfully request that the

Examiner provide proper support for the obviousness rejection under 35 U.S.C. 103 as necessitated by the Guidelines.

Kennedy and Weber, Individually and in Combination, Fail to Teach Various Limitations Recited in the Applicants' Claims

The Applicants respectfully submit that independent Claims 1, 8, 15, 22 and 23 each contain unique and novel limitations that are not disclosed, taught, suggested, or even hinted at in *Kennedy and Weber*, either alone or in combination. The Applicants further respectfully submit that claims 1, 8, 15, 22 and 23 are not rendered obvious over the proposed combination of *Kennedy and Weber* and are considered to be in condition for allowance.

The Applicants further respectfully submit that dependent claims 4-7, 11-14, 15-21, 25-29, 31-35, 37-41, and 43 are not rendered obvious over the proposed *Kennedy* and *Weber* combination and are also considered to be in condition for allowance for at least the reason of depending from allowable claims.

For at least the reasons set forth herein, the Applicants respectfully submit that Claims 1, 4-8, 11-15, 18-23, 25-29, 31-35, 37-41, and 43 are not rendered obvious by the proposed combination of *Kennedy* and *Weber.* The Applicants further respectfully submit that Claims 1, 4-8, 11-15, 18-23, 25-29, 31-35, 37-41, and 43 are in condition for allowance. Thus, the Applicants respectfully request that the rejection of Claims 1, 4-8, 11-15, 18-23, 25-29, 31-35, 37-41, and 43 under 35 U.S.C. § 103(a) be reconsidered and that Claims 1, 4-8, 11-15, 18-23, 25-29, 31-35, 37-41, and 43 be allowed.

CONCLUSION:

In view of the foregoing amendments and remarks, this application is considered to be in condition for allowance, and early reconsideration and a Notice of Allowance are earnestly solicited.

Although the Applicants believe no fees are deemed to be necessary; the undersigned hereby authorizes the Commissioner to charge any additional fees which may be required, or credit any overpayments, to **Deposit Account No. 500777**. If an extension of time is necessary for allowing this Response to be timely filed, this document is to be construed as also constituting a Petition for Extension of Time Under 37 C.F.R. § 1.136(a) to the extent necessary. Any fee required for such Petition for Extension of Time should be charged to **Deposit Account No. 500777**.

Please link this application to Customer No. 53184 so that its status may be checked via the PAIR System.

Respectfully submitted,

7 January 2008   /Steven J. Laureanti/signed

Date   Steven J. Laureanti, Registration No. 50,274

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